cases to the contrary. That a subsequent act of the legislature may disturb the rights of beneficiaries under a will is the doctrine of at least one English and one American case. Both are to be distinguished or at least reconciled, as the facts of both cases show the statute to have been passed before the testator's death, and either he actually knew or was legally presumed to know the change made in the effect of his will thereby and to have acquiesced therein. *Hasluck* v. *Pedley* (1874), L. R. 19 Eq. 271; *Lincoln* v. *Perry* (1889), 149 Mass. 368, 21 N. E. 671, 4 L. R. A. 215. The law as changed by judicial interpretation can be considered almost analogous to the law as changed by an act of the legislature. The reason why a statutory change should not apply to a will previously made, and the authorities which hold that it does not so apply afford a safe guide to the decision of a case wherein a change of judicial interpretation has threatened to alter the rights of the beneficiaries under a will obtaining at the drafting and execution thereof. The only question likely to arise in criticism of the principal case is the summary manner in which the court disposed of the rule that the law is not presumed to be changed by a change of judicial interpretation mentioned above. But for this general principle of law interposing, the analogy between this case and the case of a subsequent change of law by legislative act would be unquestioned; the analogy recognized the decision must be universally approved as in accord with the weight of reason and of authority.

WILLS—DEFINITE FAILURE OF ISSUE—STATUTE DECLARING PRESUMPTION.—A will gave plaintiff real estate "for and during the term of his natural life, but in the event of death leaving issue said real estate shall go and vest in said issue absolutely and in fee, but in the event of death * * * without issue * * *" over in fee. The lower court held that plaintiff took an estate in fee tail, which by the act of 1855 became and was enlarged into a fee simple. A statute of Pennsylvania (Act No. 172, 1897, P. L. 213) provides that any devise * * * containing the words "die without issue," or "die without leaving issue," or "have no issue," or any words importing the failure of issue, shall be construed to mean a failure of issue in the lifetime or at the death of such person (i. e., a definite failure of issue) unless a contrary intent appear. This Act the lower court and counsel failed to consider, and it was *held* in the Supreme Court on authority of said Act that plaintiff took a life estate merely. *Lewis et al.* v. *Link Belt Co.* (1908), — Pa. —, 70 Atl. 967.

It seems strange that an Act of such great importance should wait for nearly eleven years for judicial interpretation, even more strange that it should not be brought into requisition by court and counsel.

At common law, in a devise of lands, a limitation of them in default of issue, unexplained, was construed as importing prima facie an indefinite failure of issue. 2 BIGELOW'S JARM. WILLS (6th Ed.), *1324, p. 466. This rule of the common law has long been the rule in Pennsylvania. *George* v. *Morgan*, 16 Pa. 95, and cases cited therein. As the court in this last case points out on p. 105, the manifest intent of the testator must often yield to the rule. Kent says that the construction given these words by the common law is an unnatural one, and in most cases produces an effect contrary to what the

testator would have wished. 4 KENT'S COM. *274. So more than twenty states have by statute declared that the presumption shall be otherwise—that in future these words shall import a definite and not an indefinite failure of issue. ROOD, WILLS, § 639 and note. It is clear to even the layman that the testator in the principal case intended that the plaintiff should take a life estate, and no more; yet, while the intent is clear, the common law rule which the lower court erroneously thought still to be the law in Pennsylvania resulted in a decision directly contrary to this intent. The courts of Pennsylvania have often sought to escape the hardship of this common law presumption, and have seized upon every pretext to give the testator's manifest intent the effect due it. *Hill* v. *Hill,* 74 Pa. 173. The adoption of this statutory presumption will prove an aid to the courts of the state, as similar statutes have to other courts, in their commendable efforts to give effect to the real intent of a testator.

WILLS—SPECIFIC LEGACY—ADEMPTION.—Testator bequeathed to his niece insurance policies which he held on the life of her husband, she to pay the premiums until they mature. Testator survived the insured, and the proceeds of the policies paid him were used to buy bonds in his own name. There is no question of the testator's insurable interest in the life of the niece's husband. *Held,* that the legacy was specific and was adeemed. *In re Pruner's Estate, Appeal of Hiltner* (1908), — Pa. —, 70 Atl. 1000.

In Pennsylvania the law has long been settled that the ademption of a specific legacy is effected by the extinction of the thing or fund bequeathed—so well settled that the court in the principal case did not deem it necessary to cite authority. *Blackstone* v. *Blackstone,* 3 Watts 335, 27 Am. Dec. 359; *In re Ludlam's Estate,* 13 Pa. 188, 1 Pars. Eq. Cas. 116; *Appeal of Smith,* 103 Pa. 559; *In re Bell's Estate,* 8 Pa. Co. Ct. Rep. 454; *Estate of Keate,* 16 Phila. 257; *Hoke* v. *Herman,* 21 Pa. 301. This view is, broadly speaking, in accord with the great weight of judicial authority. There may be some doubt, however, whether, under the peculiar facts of the principal case, granting that the legacy is specific, it was properly held to be adeemed. Woerner says, "But, where the testator's interest in property bequeathed is altered, or a fund converted into property of a different description, by operation of law, * * * there will be no ademption." 2 WOERNER AM. ADMIN. LAW, § 446, p. 974; WMS. EX. *1325; *Walton* v. *Walton,* 7 John. Ch. (N. Y.) *258, cited in support of the law as Woerner states it, presents facts so different from those of the principal case as to distinguish it therefrom. Opposed to Woerner's statement of the law is a Pennsylvania case, *In re Ludlam's Estate,* supra, in which the change in the form of the legacy was the result of an act on the part of the state,—a payment to the testator, during his lifetime, of a debt due him, the right to claim which payment was the bequest involved. This change was held to adeem the legatee's rights. While not, strictly speaking, on all fours with the principal case, this case is so nearly so as to justify this latest decision of the same court. Under all the circumstances there seems little reason to doubt the wisdom of the court's opinion in the principal case; nevertheless the facts, so different from those of former adjudications on the subject of ademption, make the case worthy of mention.